

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

HOST TERMINALS, LLC,

Plaintiff,

v.

**CERTAIN UNDERWRITERS AT LLOYD’S
OF LONDON subscribing to Policy Number
B0507 M18PL00480, et al.**

Defendants.

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) **Civil Action No.: 2:19-cv-00361**
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NOTICE OF REMOVAL

Defendants QBE Corporate Limited as lead underwriter in its individual capacity subscribing to Policy Number B0507-M18PL00480 and QBE Underwriting Limited in its individual capacity as managing agent of Syndicate 1036 at Lloyd’s of London, the proper party defendants in this action (QBE Corporate Limited and QBE Underwriting Limited in their individual capacities only are collectively referred to herein for sake of convenience as “Underwriters”), by counsel, hereby file this Notice of Removal pursuant to the provisions of 28 U.S.C. §§ 1332, 1441, and 1446, and states as follows for its Notice of Removal:

1. This civil action commenced in the Circuit Court for the City of Norfolk, Virginia on June 11, 2019, with the filing of a Complaint by Plaintiff Host Terminals, LLC (“Host”) styled *Host Terminals, LLC v. Certain Underwriters at Lloyd’s of London subscribing to Policy Number B0507 M18PL00480 and Enviva Port of Chesapeake LLC*, Case No. CL1900578600.

2. Attached hereto as Exhibit A and made part hereof is a copy of all the process, orders, and pleadings filed and/or served in this action, including the Complaint.

3. Pursuant to the terms of the insurance policy at issue, Underwriters were served with process through Mendes & Mount (Attorneys) at 750 Seventh Avenue, New York, NY 10019-6829 on June 12, 2019 (via the Secretary of the Commonwealth). This Notice of Removal is timely filed—within 30 days after Underwriters were served with the Summons and Complaint (the initial pleading setting forth Plaintiff’s claim for relief upon which this action is based).

4. Plaintiff Host is and was, both at the time of the commencement of this action and at the time of filing of this Notice of Removal, a limited liability company organized and existing under the laws of the Commonwealth of Virginia, with its principal place of business located in the Commonwealth of Virginia. Upon information and belief, the members of Host are citizens of the Commonwealth of Virginia. Thus, Host is a citizen of Virginia.

5. Defendant QBE Corporate Limited, as lead underwriter in its individual capacity subscribing to Policy Number B0507-M18PL00480, is a business entity organized and existing under the law of England and Wales with a principal place of business located at Plantation Place, 30 Fenchurch Street, London, United Kingdom EC3M 3BD and as such, is a citizen of a foreign country.

6. Defendant QBE Underwriting Limited, in its individual capacity as managing agent of Syndicate 1036 at Lloyd’s of London, is a business entity organized and existing under the law of England and Wales with a principal place of business located at Plantation Place, 30 Fenchurch Street, London, United Kingdom, EC3M 3BD and as such, is a citizen of a foreign country.

7. Underwriters (QBE Corporate Limited as lead underwriter in its individual capacity subscribing to Policy Number B0507-M18PL00480 and QBE Underwriting Limited in its individual capacity as managing agent of Syndicate 1036 at Lloyd’s of London) are the proper

party defendants in this action pursuant to the terms of the insurance policy at issue and applicable law.

8. To the extent that Host has properly named any other defendants connected with the insurance policy (i.e., other underwriters of the policy), such defendants are nominal parties as they are bound by any judgment against Underwriters pursuant to the terms of the insurance policy. Therefore, there is no independent relief requested of or against those parties in this action. Accordingly, their citizenship is not considered for purposes of determining diversity of citizenship under 28 U.S.C. § 1332 and their consent to removal is not required and has not been obtained.

9. Defendant Enviva Port of Chesapeake LLC (“Enviva”) is a nominal party to this action as no relief is requested of or against it in this action. Accordingly, its citizenship is not considered for purposes of determining diversity of citizenship under 28 U.S.C. § 1332, and its consent to removal is not required and has not been obtained.¹

10. The amount in controversy is more than \$75,000.00 (exclusive of interests and costs) as is sufficient for the diversity jurisdiction of this Court. As set forth in the Complaint, Host seeks insurance coverage for damages totaling \$83.2 million.

11. This action is a civil action over which the Court has original jurisdiction pursuant to the provisions of 28 U.S.C. § 1332 and which is removable pursuant to 28 U.S.C. § 1441 in that:

- (a) The matter in controversy exceeds the sum or value of \$75,000.00 exclusive of interest and costs; and

¹ While its citizenship is not considered for the purposes of determining jurisdiction, Defendant Enviva is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business located in the State of Maryland. Upon information and belief, the members of Enviva are citizens of the States of Delaware and Maryland. Thus, Enviva is a citizen of Delaware and Maryland. Additionally, Enviva is not properly aligned as a defendant in this matter because, to the extent that Enviva has any interest in this litigation, its interest is aligned with Host in obtaining insurance coverage for the alleged losses. Underwriters reserve the right to file a Motion to Realign on this basis.

- (b) Plaintiff Host was and is, both at the time of the commencement of this action and at the time of the filing of this Notice of Removal, a citizen of the Commonwealth of Virginia; and
- (c) Defendants Underwriters are and were, both at the time of the commencement of this action and at the time of the filing of this Notice of Removal, business entities organized and existing under the law of England and Wales with their principal places of business in London, United Kingdom and, therefore, citizens of a foreign country;
- (d) Defendant Enviva is a nominal party in this action and, therefore, its citizenship is not considered for purposes of determining diversity of citizenship under 28 U.S.C. § 1332, and its consent to removal is not required and has not been obtained; and
- (e) Defendants Underwriters have consented to and request removal.

12. Underwriters will promptly give written notice of the filing of this Notice of Removal to Plaintiff and all other parties and will promptly file a copy of this Notice with the Circuit Court for the City of Norfolk, Virginia.

13. Plaintiff has requested a jury trial in this action.

WHEREFORE, Underwriters hereby request that this action be removed from the Circuit Court for the City of Norfolk, Virginia to the United States District Court for the Eastern District of Virginia, Norfolk Division, pursuant to this Notice of Removal, and that the Court assume jurisdiction over this action.

Respectfully submitted,

**QBE CORPORATE LIMITED as lead
underwriter in its individual capacity
subscribing to Policy Number B0507-
M18PL00480**

**QBE UNDERWRITING LIMITED in its
individual capacity as managing agent of
Syndicate 1036 at Lloyd's of London**

**By: /s/ Lindsay L. Rollins
Counsel**

John B. Mumford, Jr. (VSB No.: 38764)
Lindsay Lankford Rollins (VSB No.: 86362)
Hancock, Daniel & Johnson, P.C.
4701 Cox Road, Suite 400
Glen Allen, Virginia 23060
jmumford@hancockdaniel.com
lrollins@hancockdaniel.com
Phone: (804) 967-9604
Fax: (804) 967-9888
*Counsel for QBE Corporate Limited
as lead underwriter in its individual capacity
subscribing to Policy Number B0507-M18PL00480
and QBE Underwriting Limited
in its individual capacity as managing agent of
Syndicate 1036 at Lloyd's of London*

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of July 2019, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Deborah Y. Collins
Sullivan Collins Law Group P.L.C.
440 Monticello Avenue, Suite 1841
Norfolk, Virginia 23510
Phone: (757) 955-8545
Fax: (757) 687-0702
dcollins@asksullivan.com
Counsel for Host Terminals, LLC

Raymond A. Mascia, Jr.
William G. Passannante
Anderson Kill, P.C.
1251 Avenue of the Americas
New York, NY 10020
Phone: (212)278-1000
Fax: (212) 278-1733
rmascia@andersonkill.com
wpassannante@andersonkill.com
Counsel for Host Terminals, LLC

Michael S. Dry
Daniel T. Wallmuth
Vinson & Elkins, LLP
2200 Pennsylvania Ave. NW
Suite 500 West
Washington, DC 20037
Phone: (202) 639-6525
Fax: (202) 879-8665
mdry@velaw.com
dwallmuth@velaw.com
Counsel for Enviva Port of Chesapeake LLC

/s/ Lindsay L. Rollins

John B. Mumford, Jr. (VSB No.: 38764)

Lindsay Lankford Rollins (VSB No.: 86362)

Hancock, Daniel & Johnson, P.C.

4701 Cox Road, Suite 400

Glen Allen, Virginia 23060

jmumford@hancockdaniel.com

lrollins@hancockdaniel.com

Phone: (804) 967-9604

Fax: (804) 967-9888

Counsel for QBE Corporate Limited

as lead underwriter in its individual capacity

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and QBE Underwriting Limited

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Lloyd's of London